



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0270; FRL-9932-78-Region 7]

Partial Approval and Disapproval of Air Quality State

Implementation Plans (SIP); State of Nebraska; Infrastructure

SIP Requirements for the 2008 Ozone National Ambient Air Quality

Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to partially approve and disapprove elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O₃), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management

program are adequate to meet the state's responsibilities under the CAA.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0270. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7391; *fax number:* (913) 551-7065; *email address:* crable.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

I. Background

On June 19, 2015, (80 FR 35284), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed partial approval and disapproval of Nebraska’s submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 O₃ NAAQS.

II. Summary of SIP Revision

On February 11, 2013, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 2008 O₃ NAAQS. The submission addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA’s proposed action to approve and disapprove the SIP submissions are explained in the NPR and will not be restated here.

During the public comment period for the NPR one comment was received. The commenter stated that EPA must disapprove 110(a)(2)(C) and (D)(i)(II)(prong 3), unless Nebraska has the PM_{2.5} increments approved into its PSD SIP and its PSD program treats NO_x as a precursor for ozone. The PM_{2.5} increments and the inclusion of NO_x as a precursor to ozone was approved by EPA into the Nebraska SIP on August 4, 2014. See 79 FR 45108, Approval and Promulgation of Implementation Plans; State of Nebraska; Fine Particulate Matter New Source Review Requirements.

III. Final Action

EPA is approving Nebraska's February 11, 2013 submission addressing the requirements of the CAA sections 110(a)(1) and (2) as applicable to the 2008 O₃ NAAQS. Specifically, EPA approves the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II)(prong 3), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) which are necessary to implement, maintain, and enforce the 2008 O₃ NAAQS, as a revision to the Nebraska SIP. As discussed in each applicable section of the NPR, EPA is not taking action on section 110(a)(2)(D)(i)(I)(prongs 1 and 2) and section 110(a)(2)(I), Nonattainment Area Plan or Plan Revisions, under part D. And finally, EPA is disapproving section 110(a)(2)(D)(i)(II)(prong 4) as it relates to the protection of visibility.

IV. Statutory and Executive Order Review

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 12, 2015.

Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CC - Nebraska

2. Amend §52.1420 by adding and reserving an entry for “(28)”, and by adding an entry for “(29)” in numerical order under paragraph (e), in the table entitled “EPA-Approved Nebraska Nonregulatory Provisions”.

The addition reads as follows:

§ 52.1420 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(28) [Reserved]				

(29) Section 110(a)(2) Infrastructure Requirements for the 2008 O ₃ NAAQS	Statewide	2/11/13	[<u>Insert Federal Register</u> date of <u>publication date</u>], [<u>Insert Federal Register</u> <u>citation</u>]	[EPA-R07-OAR- 2015-0270; Region 7] This action addresses the following CAA elements 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
---	-----------	---------	--	--

[FR Doc. 2015-20619 Filed: 9/14/2015 08:45 am; Publication Date:

9/15/2015]